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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,074	02/08/2002	Gino Pavlovic	BP-65	3459
7590 02/03/2006			EXAMINER	
FRIEDRICH KUEFFNER 317 MADISON AVE RM 910 NEW YORK, NY 10017-5246			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,074

Applicant(s)

PAVLOVIC ET AL.

Examiner

Phylesha L. Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/23/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 and 9-12 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the amendment received on 31 May 2005 in which claims 2-12 are pending. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Block (U.S. Patent No. 4,360,955), in view of Norris 3,418,435.

Regarding independent claims 3, 9-12, Block teaches an electroacoustic microphone comprising an electrode (13) and a diaphragm (23) connected to a microphone amplifier (21) via electrical contacting, the electrostatic microphone comprising: at least one electrostrictive element (23) electrically connected to a second circuit (fig. 3; 37-38, 41; since the needle 37 interacts with disc 41 to collect data and transfer data to the microphone via conductive solder pad 42), the second circuit being independent from the electrical contacting of the electrode and diaphragm, and further comprising: a controllable power supply (34) for applying a predetermined voltage to the electrostrictive element such that the electrostrictive element changes its dimension and in turn changes the geometry and the acoustic properties of the electrostatic microphone.

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Block fails to teach the specifics of the second circuit (phonograph of Block) as being mechanical or electrical.

Norris teaches an electrical phonograph circuit (col. 9 line 74 through col. 10 line 1) wherein an electrical cord (112) supplies power for rotating the record (115) and the needle utilized series connect L-C circuits to receive the data (col. 2 lines 43-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to ^{provide} an electrical circuit in the invention of Block in view of Norris for driving a motor to turn the phonographical disc that the needle 37 reads. *cf*

Regarding claim 2, the combination of Block and Norris teaches the electrostrictive elements are piezoelectric elements.

Regarding claim 4, the combination of Block and Norris teaches operating electrostatically and comprising an electrode and a diaphragm with an annular spacer securing the diaphragm and the electrode at a spacing from one another, wherein the annular spacer is the electrostrictive element (figs. 1-10).

Regarding claim 5, the combination of Block and Norris teaches operating electrostatically and functioning as a microphone, further comprising a control loop configured to determine a voltage supplied to the electrostrictive element to compensate manufacturing tolerances and temperature effects having a negative effect on the spacing between the electrode and the diaphragm, wherein the electroacoustic transducer or electroacoustic capsule has a capacitance providing a parameter for the control loop for determining the voltage supplied to the electrostrictive element (col. 3 line 64 through col. 4 line 19).

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Regarding claim 6, the combination of Block and Norris teaches operating electrostatically and functioning as a microphone, comprising a sound receiver (37) arranged between a main source of sound (41) and the microphone (11) and determining a sound level, wherein values of the sound level measured by the sound receiver are employed for controlling a voltage supplied to the electrostrictive element.

Allowable Subject Matter

Claims 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments, filed 23 January 2006, with respect to the rejection(s) of claim(s) 2-12 under 35 U.S.C 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made with Block in view of Norris.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 26, 2005


PLD

~~SINH TRAN~~
~~SUPERVISORY PATENT EXAMINER~~

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SUPERVISORY PATENT EXAMINER